



DEPARTMENT OF THE NAVY

OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON, DC 20350-2000

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Ser DNS-36JP/15U107053

August 4, 2015

Sent via email to: ggordon@mcclatchydc.com

Mr. Gregory L. Gordon
McClatchy Newspapers
700 12th Street NW, Suite 1000
Washington, DC 20005

Dear Mr. Gordon:

This is in reference to your Freedom of Information Act (FOIA) request dated January 22, 2015. Your request was received in our office on the same day.

Although we began processing your request immediately upon receipt, we regrettably failed to inform you of the processing status of your request. We apologize for the inconvenience.

Upon receipt of your request, we contacted the Department of the Navy Inspector General (DON IG), Navy Criminal Investigative Service (NCIS), Navy Chief of Information (CHINFO), Navy Personnel Command (NPC), and Navy Special Warfare Command (NAVSPECWARCOM).

DON IG conducted a search of their local records and the Navy Inspector General Hotline Tracking System (NIGHTS) database, and did not locate any responsive records. NIGHTS contains a record of all Navy IG investigations opened after 2007. DON IG advised that this indicates with a high degree of confidence that no IG investigations concerning Chris Kyle were opened after 2007, but, with regard to investigations prior to 2008, these results indicate only that DON IG was not involved in those investigations. As a result, it is possible that there may be local IG investigations prior to 2008 that are responsive to your request. Additionally, please be advised that the Marine Corps IG activities do not use NIGHTS. If you have reason to believe that a Marine Corps IG activity opened an investigation requiring Chris Kyle, we recommend you submit a new FOIA request specifically for Marine Corps IG records.

NCIS conducted a search of their records and did not locate any responsive records. NCIS maintains the central repository

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databases regarding law enforcement and criminal offense data. Though these databases are not all-inclusive and may not represent the total number of all offenses occurring within the Navy, they are considered the definitive repositories of Navy criminal offense data.

CHINFO advised that the only responsive records expected to be maintained by their offices would involve coordination on film production by way of CHINFO West. As the film "American Sniper" was produced without Department of Defense participation, CHINFO would not hold responsive records.

NPC and NAVSPECWARCOM both advised that they may maintain responsive records. Therefore, we have forwarded your request to those officials for action and direct response to you.

We note that you requested expedited processing of your FOIA request. Per 32 C.F.R. § 701.8 (f)(5), expedited processing is granted only when a requester can demonstrate a compelling need for the requested information. You claim that the records requested concern a breaking news story, wherein the value will be lost if not disseminated quickly. You argue that expedited disclosure of this information is in the public interest because you have reason to believe that the claims made in this individual's book and the associated movie may not be factually accurate.

Please be advised that "public interest," as defined by the FOIA, extends only to the operations and activities of the government. None of the individuals involved in the book or movie have made any claim to speak on behalf of the U.S. Government, nor would they have basis to make such a claim, or for an observer to infer any such claim. Furthermore, it is unclear how the truth or falsehood of an individual's personal account of events would have any impact on the integrity of the government or public trust. Additionally, it is further unclear how there is, as of the submission of your request, a breaking news interest in this matter, more than three years following the initial publication of the book, which had an extended run on bestseller lists. Therefore, your initial request does not provide sufficient information to conclude that you are entitled to receive expedited processing pursuant to 32 C.F.R. § 701.8 (f)(5).

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You also requested a waiver of fees, again citing the compelling public interest in verification of claims made about this individual. For the reasons above, I have determined that you have not provided sufficient justification for a general waiver of fees.

Based on the information provided, we have determined that, for the purposes of this request, you fall under the "News Media" fee category, entitling you to all search time, all review time, and the first 100 pages (or equivalent cost) of duplication free of charge. Fees incurred beyond this amount will be assessed in accordance with the applicable fee schedules.

If you are not satisfied with this action, under 32 CFR §701.12(a), you may appeal the denial of your request by writing to:

Office of the Judge Advocate General
1322 Patterson Ave, SE, Ste 3000
Washington Navy Yard, DC 20374-5066

Your appeal must be received within sixty calendar days from the date of this letter. A copy of your initial request and this letter must accompany the appeal. The appeal should be marked "FREEDOM OF INFORMATION APPEAL" both on the envelope and the face of the letter. In order to expedite the appellate process and ensure full consideration of your appeal, your appeal should contain a brief statement of the reasons you believe this initial decision to be in error.

Questions regarding the action this office has taken during the initial processing of your request may be directed to our FOIA service center at (202) 685-0412. For questions regarding the current status of your request, please contact a FOIA Coordinator at NPC directly at (901) 874-3165, or NAVSPECWARCOM directly at (619) 537-1133.

Sincerely,

A handwritten signature in blue ink, appearing to read "R. Patterson", with a long horizontal line extending to the right.

R. PATTERSON

Head, DON PA/FOIA Program Office